

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,
v.

ORDER

JOHNNY B. GREEN,

19-cr-45-wmc-1

Defendant.

Defendant Johnny B. Green has filed a motion requesting that he be removed from the facility where he is serving a state sentence and placed in federal custody. (Dkt. # 32.) His motion must be denied for the reasons set forth below.

At the time of the federal indictment, the defendant was in state custody pending probation revocation proceedings in Dane County, Wisconsin, Circuit Court Case No. 15CF2730. After his probation was revoked in that case on April 10, 2019, the defendant was sentenced to and is currently serving a term of three and a half years at Redgranite Correctional Institution in Wisconsin.

The defendant also appeared via a writ of habeas corpus ad prosequendum in this court on April 11, 2019, for prosecution of his federal case, effectively having been “borrowed” for federal prosecution while remaining an inmate in the custody of the State of Wisconsin. The defendant was then later convicted and sentenced in this court on September 18, 2019, after pleading guilty to one count of distributing 50 grams or more of a mixture or substance containing methamphetamine in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B), and committed to the custody of the U.S. Bureau of Prisons to serve a 60-month term of imprisonment with a four-year term of supervised release to follow. Further, because the defendant had failed to take advantage

of the significant opportunity he was provided after receiving a probationary sentence in his underlying state case, the defendant's federal sentence was ordered to run *consecutively* to his state sentence and will not begin until the defendant completes his sentence imposed in Dane County, Wisconsin, Circuit Court Case No. 15CF2730. As a result, under 18 U.S.C. § 3585, the defendant is not eligible for credit toward his federal sentence for *any* time credited toward his state sentence. Regardless, this court has no authority to take possession of the defendant until completion of his state sentence imposed in Dane County, Wisconsin, Circuit Court Case No. 15CF2730.

Accordingly, the defendant's motion to be removed from the facility where he is serving a state sentence and placed in federal custody (dkt. #32) is DENIED.

Entered this 3rd day of January, 2020.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge